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**SUPREME COURT
THIRD DIVISION**

**STI DRIVERS ASSOCIATION,
SALVADOR CARANZA, MARIANO TAN,
AMADO EVANGELISTA, MANUEL
EVANGELISTA, EUSEBIO TABULOD,
JR., MANUEL T. RODULFO, JOHNNY
BUMATAY, FRANCISCO DOMINGO,
NOLITO BRANZUELA, DOMIZALDE
BUMATAY, FERNANDO ARIBON,
JUNELIAM QUINANOLA, JESUS
FERRER, RAYMUNDO BUMATAY, JR.,
MANUEL MOSTRALES, ROGELIO
MAZO, ROLANDO EVASCO,
FELIXBERTO BADINAS, GERRY
BOLIDO, GREGORIO GALVEZ, JR.,
CHARITO MOSCOSA, MARCELINO
VILLANUEVA, IBARISTO LACATA,
FELIX OROGAN, GERRY CONDA,
DENNIS SANCHEZ, PABLO ARAOS,
NARIO BERNALDEZ, LITO YAMBA,
ANDRES NOVAL, JUDY VICENTE,
DAVID CAJES, and FELIPE
CASBADILLO,**

Petitioners,

-versus-

**G.R. No. 143196
November 26, 2002**

**COURT OF APPEALS, SIMENT
TRANSPORT, INC., ELY CHUA,
WILLIAM CHUA, SIMON CHUAHE,**

**ELIZABETH TAN, JRB MANPOWER
AGENCY/EDWIN BUMATAY,
*Respondents.***

X-----X

DECISION

CORONA, J.:

Before us is a Petition for Review of the Decision^[1] dated July 26, 1999 of the Court of Appeals^[2] in CA-G.R. SP No. 51216 dismissing the petition for certiorari of the Decision^[3] dated January 31, 1996 of the National Labor Relations Commission in NLRC NCR Case No. 008951-95 which affirmed the Decision^[4] dated April 21, 1995 of Labor Arbiter Romulus Protasio ruling in favor of the respondents.

The facts, as found by the appellate court, are as follows:

The petitioners are truck drivers and truck helpers of herein respondents Siment Transport, Inc. (STI, for brevity), Family Mercantile (FM, for brevity), Simon Enterprises (SE, for brevity), and their owners, namely, Ely Chua, William Chua, Simon Chuahe, and Elizabeth Tan. JRB Manpower Agency and Edwin Bumatay were likewise included as respondents in the instant petition. The petitioners are Salvador Caranza, Mariano Tan, Amado Evangelista, Manuel Evangelista, Eusebio Tabulod, Jr., Manuel T. Rodulfo, Johnny Bumatay, Francisco Domingo, Nolito Branzuela, Domizalde Bumatay, Fernando Aribon, Juneliam Quinanola, Jesus Ferrer, Raymundo Bumatay, Jr., Manuel Mostrales, Rogelio Mazo, Rolando Evasco, Felixberto Badinas, Gerry Bolido, Gregorio Galvez, Jr., Charito Moscosa, Marcelino Villanueva, Ibaristo Lacata, Felix Orogan, Gerry Conda, Dennis Sanchez, Pablo Araos, Nario Bernaldez, Lito Yamba, Andres Noval, Judy Vicente, David Cajés and Felipe Casbadillo.

The petitioner drivers formed STI Drivers Association which was registered with the Department of Labor and Employment (DOLE,

for brevity) under Registration Certificate No. NCR-UR-1-1188-94. On May 2, 1994, the said union filed a petition for certification election duly signed by Atty. Ernesto Arellano. On June 13, 1994, Med-arbiter Brigada Fadrigon issued an order dismissing the petition. On appeal to the DOLE, Undersecretary Bienvenido Laguesma affirmed the said order on August 25, 1994.

Pending resolution of the appeal to the DOLE, however, on June 29, 1994, petitioner drivers Salvador Caranza, Mariano Tan, Amado Evangelista, Manuel Rodulfo, Johnny Bumatay and Eusebio Tabulod, Jr. were dismissed by respondent STI for violation of the "Union Security Clause" provided for in respondent's Collective Bargaining Agreement (CBA, for brevity) with the Federation of Democratic Trade Unions-STI Workers Union Chapter (FDTU-STI, for brevity). Subsequently, the concerned petitioners filed a complaint for illegal dismissal, unfair labor practice and payment of damages against the respondents before the Regional Arbitration Branch of the NLRC. On the same day, the petitioner drivers also filed a complaint for underpayment of their vacation leave, sick leave and 13th month pay against the respondents.

The petitioner truck helpers (pahinantes) were also dismissed for abandonment of work when they failed to report for work on July 13, 1994 on the ground that they allegedly attended an organizational meeting of the drivers' union. Respondent JRB sent notices to the concerned petitioners requiring them to report for work with a stern warning that their employment would be terminated if they failed to comply. Inasmuch as they disobeyed the said order, they were dismissed for abandonment of work. On August 2, 1994, they filed a complaint for illegal dismissal, unfair labor practice and payment of damages against the respondents before the Regional Arbitration Branch of the NLRC.

On October 1, 1994, the petitioner drivers Francisco Domingo, Nolito Branzuela, Domizalde Bumatay, Fernando Aribon, Juneliam Quinanola, Jesus Ferrer, Manuel Mostrales, Raymundo Bumatay, Jr., Rogelio Mazo, and Rolando Evasco were also dismissed on the ground that they failed to join FDTU-STI as required by the union security clause of their CBA. They filed a complaint for illegal dismissal, unfair labor practice and damages. This case was

consolidated with the first case filed by the first group of petitioner drivers.

The three cases were consolidated and assigned to Labor Arbiter Ernesto Dinopol. They were later on re-raffled and assigned to Labor Arbiter Romulus Protasio. The parties were required to submit their respective position papers. However, petitioners failed to submit their position paper. Hence, Labor Arbiter Protasio proceeded to hear the case ex parte. On April 21, 1995, Labor Arbiter Protasio dismissed the three consolidated complaints, the dispositive portion of which reads:

“WHEREFORE, judgment is hereby rendered declaring the dismissal of the complainants in Case No. 1 by JRB Manpower Agency/Edwin Bumatay and the dismissal of complainants by respondent Siment Transport, Inc. and its officers, William Chua, Ely Chua, Simon Chuah and Elizabeth Tan in Case No. 2 as valid and legal. Paragraph Case No. 3 is also dismissed since the benefits prayed for have already been fully paid for as here before indicated.”^[5]

On May 9, 1995, the petitioners appealed the case to the NLRC but, in a resolution dated June 30, 1995, the NLRC dismissed the appeal for being filed out of time. The motion for reconsideration was likewise denied.

They filed a petition for certiorari before the Court of Appeals questioning the decision of the NLRC but the appellate court dismissed the same. The Court of Appeals held that the petitioners were not denied due process inasmuch as their counsel, a certain Villamor Mostrales, was informed in open court to submit petitioners’ position paper, but he did not. In affirming the legality of the petitioners’ dismissal, the Court of Appeals found that they committed an act of disloyalty when, during the existence of the CBA, they organized another union (the STI Drivers’ Association) and then filed a petition for certification election outside the 60-day freedom period, in violation of the “contract bar rule” under Articles 253 and 253-A of the Labor Code.

Hence, this petition for review of the decision of the Court of Appeals based on this sole assignment of error:

“I

“PETITIONERS WERE DENIED DUE PROCESS BECAUSE THEY WERE MISREPRESENTED BY AN IMPOSTOR LAWYER OR A NON-LAWYER.”^[6]

The petitioners pray that the case be remanded to the Regional Arbitration Branch of the NLRC on the ground that they were denied due process for being represented by an impostor lawyer who was negligent in attending to their case from the moment it was filed up to its dismissal by the appellate court. They claim that a certain Villamor Mostrales led them to believe that he was a lawyer who could represent them in the consolidated labor complaints against herein respondents. However, Mr. Mostrales failed to file the necessary position papers required by Labor Arbiter Protasio. As a result, Labor Arbiter Protasio declared the petitioners in default and ruled against them on the basis of the position paper submitted by the respondents. The petitioners discovered that Mr. Mostrales was not a lawyer after they secured a certification from the Office of the Bar Confidant that Mr. Mostrales’ name is not included in the Roll of Attorneys. They now argue that the actions of the impostor lawyer denied them due process for the reason that they were not given competent representation during the hearing of the case and thus the proceedings a quo were null and void.

We deny the petition.

The records show that, aside from Mr. Mostrales, a counsel named Atty. Ernesto R. Arellano, represented them in all the stages of the proceedings. In fact, the Labor Arbiter issued an order notifying Atty. Arellano of the reglementary period within which to file the petitioners’ position papers. We herein quote the judgment of the NLRC denying petitioners’ motion for reconsideration as proof of this fact, to wit:

“Records show that contrary to complainants’ allegations, the Order of February 20, 1995 was served to their counsel, ‘Atty. Ernesto R. Arellano of Rm. 400, Jino Bldg., Timog Avenue,

Quezon City.’ It was received by certain ‘Edmond T. Lao’ on February 27, 1995 (See Record, p. 268).”^[7]

In addition, the petitioners failed to dispute the fact that the written notification of the order of dismissal of the petition for certification election was directed to Atty. Arellano as petitioners’ counsel of record.^[8] And after the adverse decision of the Labor Arbiter, Atty. Ernesto Arellano filed the appeal to the NLRC, as evidenced by his signature on the appeal brief.^[9] Also, the NLRC directed the notice of its resolution (dismissing the petitioners’ appeal for having been filed out of time) to his law firm, Arellano and Associates.^[10] The earlier petition that they filed before this Court (involving the same parties and issues), which was remanded to the Court of Appeals as a result of our ruling in *St. Martin Funeral Home vs. National Labor Relations Commission*,^[11] was likewise signed by the same Atty. Ernesto R. Arellano.^[12] These undisputed facts prove that, during the entire proceedings, a bona-fide lawyer represented them and filed pleadings in their behalf.

Based on the foregoing, we find that the petitioners were duly represented by a bona-fide lawyer and the latter’s failure to file the required position papers before the Labor Arbiter or to appeal on time to the NLRC is not a ground to declare the proceedings a quo null and void. We have ruled time and again that any act performed by a lawyer within the scope of his general or implied authority is regarded as an act of his client. Consequently, the mistake or negligence of petitioners’ counsel may result in the rendition of an unfavorable judgment against them.^[13] Exceptions to the foregoing have been recognized by this Court in cases where reckless or gross negligence of counsel deprives the client of due process of law, or when its application “results in the outright deprivation of one’s property through a technicality.”^[14] None of these exceptions has been sufficiently shown in the instant case.

In the case at bar, the petitioners merely claimed deprivation of their rights as a result of misrepresentations perpetrated by an impostor lawyer. But, as already discussed, we cannot overlook the fact that they retained the services of Atty. Arellano. The petitioners failed to show any evidence that the services of Atty. Arellano violated their right to due process or deprived them of their property through a

technicality. No gross negligence can be attributed to Atty. Arellano inasmuch as he did not totally abandon or disregard his clients' cases. He filed pleadings for and in their behalf. The petitioners should therefore, as far as this suit is concerned, bear the consequences of their faulty option. After all, in the application of the principle of due process, what is sought to be safeguarded against is not the lack of previous notice but the denial of the opportunity to be heard. The question is not whether the petitioners succeeded in defending their interest but whether the petitioners had the opportunity to present their side.^[15]

Although nothing can be done to reverse the decision of the appellate court, the aggrieved petitioners can still explore the feasibility of filing the appropriate criminal, civil and administrative cases against Mr. Mostrales and Atty. Arellano, as warranted. Damages, after all, can be recovered as a result of fraud or inaction.

WHEREFORE, premises considered, the petition is hereby **DENIED**. No costs.

SO ORDERED.

**Panganiban, Sandoval-Gutierrez and Carpio-Morales, JJ.,
concur.
Puno, J., on official leave.**

[1] Penned by Associate Justice Romeo J. Callejo, Sr. (now Associate Justice of the Supreme Court), and concurred in by Associate Justices Quirino D. Abad Santos, Jr. and Mariano M. Umali; Rollo, pp. 36-47.

[2] Sixth Division.

[3] Rollo, pp. 95-102.

[4] Rollo, pp. 110-126.

[5] Rollo, p. 126.

[6] Rollo, p. 30.

[7] Rollo, p. 100.

[8] Rollo, p. 162.

[9] Rollo, pp. 108-109.

[10] Rollo, p. 195.

[11] 295 SCRA 494 [1998].

- [12] Rollo, pp. 91-93.
- [13] Heirs of Elias Lorilla vs. Court of Appeals, G.R. No. 118655, April 12, 2000; Bernardo vs. Court of Appeals, 275 SCRA 413, 428 [1997]; Casolita, Sr. vs. Court of Appeals, 275 SCRA 257, 264-265 [1997]; Salonga vs. Court of Appeals, 269 SCRA 534, 545 [1997]; People vs. Salido, 258 SCRA 291, 295 [1996]; B.R. Sebastian Enterprises, Inc. vs. Court of Appeals, 206 SCRA 28, 39 [1992]; Manila Electric Co. vs. Court of Appeals, 187 SCRA 200, 208 [1990].
- [14] Salonga vs. Court of Appeals, 269 SCRA 534 [1997].
- [15] Villa Rhecar Bus vs. de la Cruz, 157 SCRA 13 [1988].

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